

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Revision No.622 of 2007

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Date of decision:1.5.2007

Dilbag Singh alias Sukhwinder Singh

.....Petitioner

v.

State of Punjab

.....Respondent

....

Present: Mr. P.S. Sekhon, Advocate for the petitioner.

Mr. I.P.S. Sidhu, Senior Deputy Advocate General, Punjab
for the respondent-State.

.....

S.S. Saron, J.

This criminal revision petition has been filed against the order dated 24.3.2007 passed by the learned Additional Sessions Judge, Sangrur whereby the conviction of the petitioner for the offences under Sections 304-A and 337 IPC recorded by the learned Additional Chief Judicial Magistrate Sangrur vide order order dated 4.5.2004 has been upheld.

The petitioner was charged for having committed the offences under Sections 304-A and 337 IPC. The Police party on 10.6.1999 during the course of patrolling reached at the Bus Stand of Village Kala Jhar where ASI Lachhman Dass of Police Station got his statement (Ex.PA) recorded with ASI Bahadur Singh. Lachhman Dass ASI stated that he was posted at Police Station Bhawanigarh. On 10.6.1999, he along with other Police officials in connection with patrolling in Government vehicle was returning from Village Noorpura, Bharaj, Lakhewal, Channo etc. to Police Station

Bhawanigarh. When they reached at the Bus Stand Kala Jhar one Canter Tata-407 bearing registration No.PB 23-A 8140 came from the opposite side in a rash and negligent manner. The driver of the police vehicle Constable Surjit Singh took his Gypsy of the road. However, the above said canter driver came on the wrong side and dashed against the Police Gypsy. Both the legs and arms of Constable Surjit Singh, Driver suffered fracture. Constable Amritpal No.1031 who was also sitting in the Gypsy received injuries on his chest, mouth and right leg. The damage was also caused to the Gypsy. The complainant, who was sitting on the other side of the driver did not receive any injury. However, injuries were received by the other persons. The driver of the canter fled away from the place of the occurrence. It was stated that the accident had occurred due to the rash and negligent driving of the petitioner. On the basis of the statement (Ex.PA) FIR (Ex.PA/2) was registered. The Police visited the spot and the vehicles involved in the accident were taken in possession. Photographs of the place were taken. Site plan of the place of occurrence was prepared. The registration documents of the canter and driving licence was also taken in possession. The post-mortem of the dead body of Surjit Singh was conducted. The petitioner was arrested in the case and after completion of investigation charge-report (Challan) was filed in the Court. The petitioner was charged for the offences under Sections 304-A and 337 IPC to which he pleaded not guilty and claimed trial. The prosecution led evidence in support of its case. The trial Magistrate after considering the evidence and material on record convicted and sentenced the petitioner vide judgment and order dated 4.5.2004. The petitioner filed appeal against the said

judgment and order and the learned Additional Sessions Judge after considering the evidence and material on record dismissed the same. When the case was taken up for motion hearing after considering the material on record this Court issued notice of motion qua sentence only for today i.e. 1.5.2007.

Heard learned counsel for the parties. It is submitted by the learned counsel for the petitioner that the sentence imposed is unduly harsh. It is submitted that in the facts and circumstances of the case the petitioner is liable to be released on probation on the undertaking that he would be of good behaviour and maintain peace during the period of probation.

In response learned counsel for the State has submitted that the petitioner is not liable to be released on probation. The sentence imposed is just and adequate. It is submitted that as the petitioner has caused the death of a police official and he has rightly been convicted and sentenced.

I have given my thoughtful consideration to the respective contentions of the learned counsel appearing for the parties. It may appropriately be noticed that it has come on record that the petitioner in a rash and negligent manner dashed the canter vehicle that he was driving against the police vehicle as a result of which Constable Surjit Singh died. The vehicle was also damaged in the accident. While other police officials were looking after the injured persons, the petitioner reportedly fled away from the place of occurrence. Keeping in view the fact that the death had occurred due to the rash and negligent driving of the petitioner, the petitioner is not entitled to the concession of release on probation. However, the sentence of imprisonment of two years that has been imposed

in the facts and circumstances of the case appears to be on the higher side. The petitioner has been sentenced to rigorous imprisonment for a period of two years for the offence under Section 304-A IPC, besides fine to the tune of Rs.1,000/-. In the event of default of payment of fine he is to undergo further imprisonment for one month. He has also been sentenced to rigorous imprisonment for three months for the offence under Section 337 IPC. Both the substantive sentences have been ordered to run concurrently. In the facts and circumstances of the case the ends of justice would be met if the sentence of imprisonment under Section 304-A IPC is reduced to one year. Accordingly, the sentence of imprisonment for the offence under Section 304-A IPC is reduced from two years to one year.

With the modification in the sentence the criminal revision stands disposed of.

May 1, 2007.

(S.S. Saron)
Judge

hsp